

This Opinion is Not a
Precedent of the TTAB

Mailed: January 5, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board

In re Surface Deep, LLC

Serial No. 88603800

Mary Garner of LegalZoom Legal Services, Ltd.
for Surface Deep, LLC.

Claudia Garcia, Trademark Examining Attorney, Law Office 111,
Chris Doninger, Managing Attorney.

Before Adlin, Lynch and Pologeorgis, Administrative Trademark Judges.

Opinion by Adlin, Administrative Trademark Judge:

Applicant Surface Deep, LLC seeks a Supplemental Register registration for the proposed mark ANTI-ODORANT, in standard characters, for “antiperspirants and deodorants for personal use.”¹ The Examining Attorney finally refused registration under Section 23(c) of the Trademark Act on the ground that the proposed mark is a

¹ Application Serial No. 88603800, filed September 4, 2019. Applicant originally sought registration on the Principal Register under Section 1(b) of the Trademark Act, based on an alleged bona fide intent to use the mark in commerce. However, on February 24, 2020, Applicant filed an Amendment to Allege Use and amended the application to seek a Supplemental Register registration.

generic term for the identified goods, and thus incapable of distinguishing them from those of others. Applicant appealed and filed a request for reconsideration which was denied. Applicant and the Examining Attorney filed briefs.

I. Evidence and Arguments

Applicant and the Examining Attorney agree that the genus is adequately defined by Applicant's identification: "antiperspirants and deodorants for personal use." 15 TTABVUE 5; 13 TTABVUE 10. They differ over whether the relevant public understands "anti-odorant" to primarily refer to this category of goods.

A. The Examining Attorney's Position

The Examining Attorney relies on the following dictionary definitions of the proposed mark's constituent terms, and a related term:

ANTI—"counteracting, neutralizing: antacid" and
"destroying: antiaircraft"²

ODORANT—"an odorous substance"³

DEODORANT—"a preparation that destroys or masks
unpleasant odors"⁴

December 11, 2019 Office Action TSDR 5, 7; March 24, 2000 Office Action TSDR 15.

She argues based on these definitions that the term ANTI-ODORANT identifies "preparations that destroy or mask odors for personal use." 15 TTABVUE 6.⁵

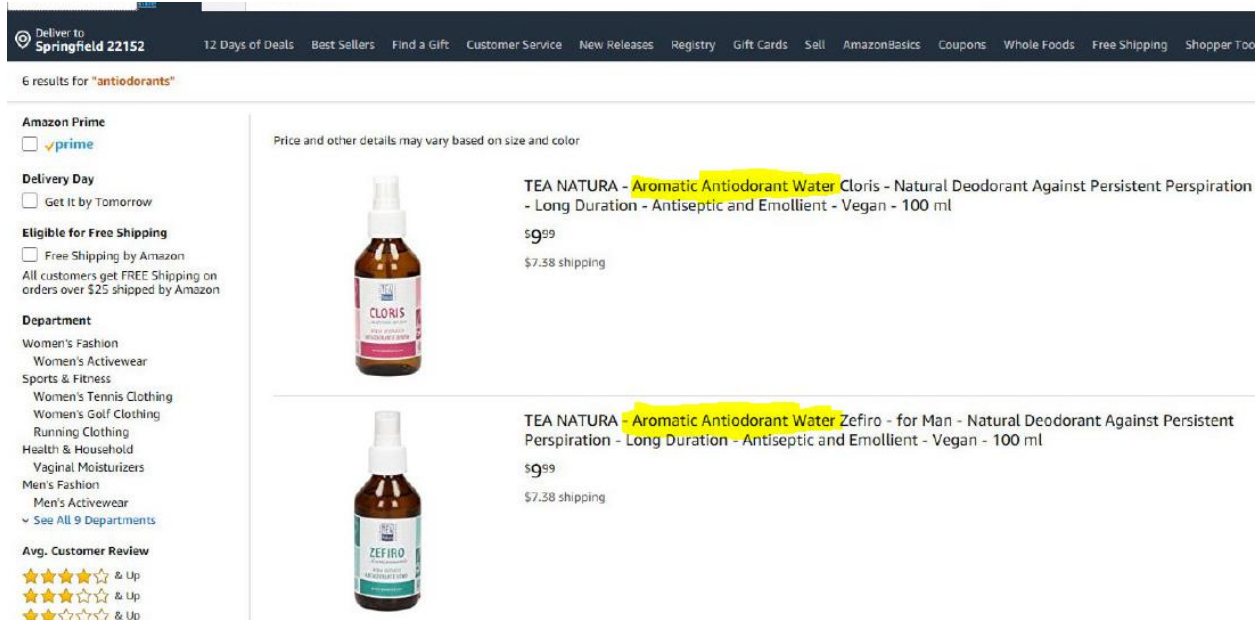
² <https://www.ahdictionary.com/word/search.html?q=anti>

³ <https://www.merriam-webster.com/dictionary/odorant>

⁴ <https://www.merriam-webster.com/dictionary/deodorant>

⁵ Citations to the appeal record are to TTABVUE, the Board's online docketing system. The number preceding TTABVUE corresponds to the docket entry number, and any numbers following TTABVUE refer to the page(s) of the docket entry where the cited materials appear.

The Examining Attorney also relies on third-party uses of the term “antiodorant” (or minor variations thereof) in connection with antiperspirants and deodorants for personal use.⁶ For example, Tea Natura offers “aromatic antiodorant water,” a “natural deodorant against persistent perspiration”:



December 11, 2019 Office Action TSDR 11 (emphasis added). As shown, the trademark used for these products is TEA NATURA, while the product category is

Citations to the application file are to USPTO’s Trademark Status & Document Retrieval (“TSDR”) online database, by page number, in the downloadable .pdf format.

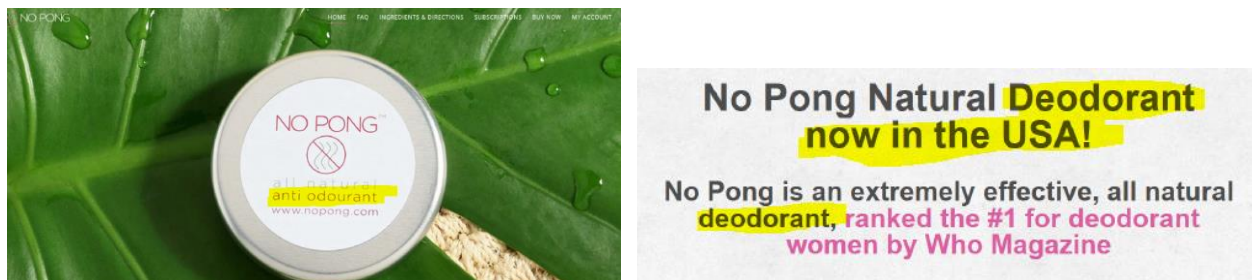
⁶ We have not focused on evidence concerning apparently foreign third-party products or apparently foreign uses of the term “antiodorant,” unless it is clear that the products are available or offered in the United States, or that American consumers are exposed to the third-party uses. We should point out, however, that Applicant relies on evidence concerning: (1) a product offered in Euros and “sent from Italy;” (2) another product priced in Euros and available on Amazon’s Spain site; (3) an apparently Chinese patent for an antiodorant “used for eliminating odor in indoor and outdoor environment, poultry farm and odor generated by pet;” and (4) an “amazon.co.uk” listing for Wanglele thickened socks which are “currently unavailable.” September 24, 2020 Office Action response TSDR 22, 23, 30; April 26, 2021 Request for Reconsideration TSDR 35.

referred to as “aromatic antiodorant water.” The product is used as a “natural deodorant against persistent perspiration.”

Similarly, the “trustcosmetics.com” website offers TRUST brand “Anti-odorants,” which “are not anti-perspirants!”, but instead “eliminate the bacteria that cause this problem in the first place”:



March 24, 2020 Office Action TSDR 25 (emphasis added). In other words, “anti-odorants” refers to a type of deodorant. This is also clear from the NO PONG website, which refers to NO PONG as both an “anti odourant” and a “deodorant”:



May 28, 2021 Denial of Request for Reconsideration TSDR 29-30 (emphasis added).⁷

⁷ While No Pong is apparently an Australian product, as shown in the website clip on the right, it is “now in the USA!”

Nuud offers a deodorant alternative, as its tagline is “stop using deodorant, start using nuud.” More specifically, Nuud claims that its product is an “anti-odorant that is magically effective for 3-7 days”:



March 24, 2020 Office Action TSDR 29 (emphasis added). Like the TRUST antiodorant, the NUUD antiodorant “[p]revents odor by neutralizing bacteria.” *Id.* at 30.⁸ The SAPONE DI UN TEMPO green tea “anti-odorant” spray also “fights bacteria responsible for the formation of bad odors.” *Id.* at 45.⁹

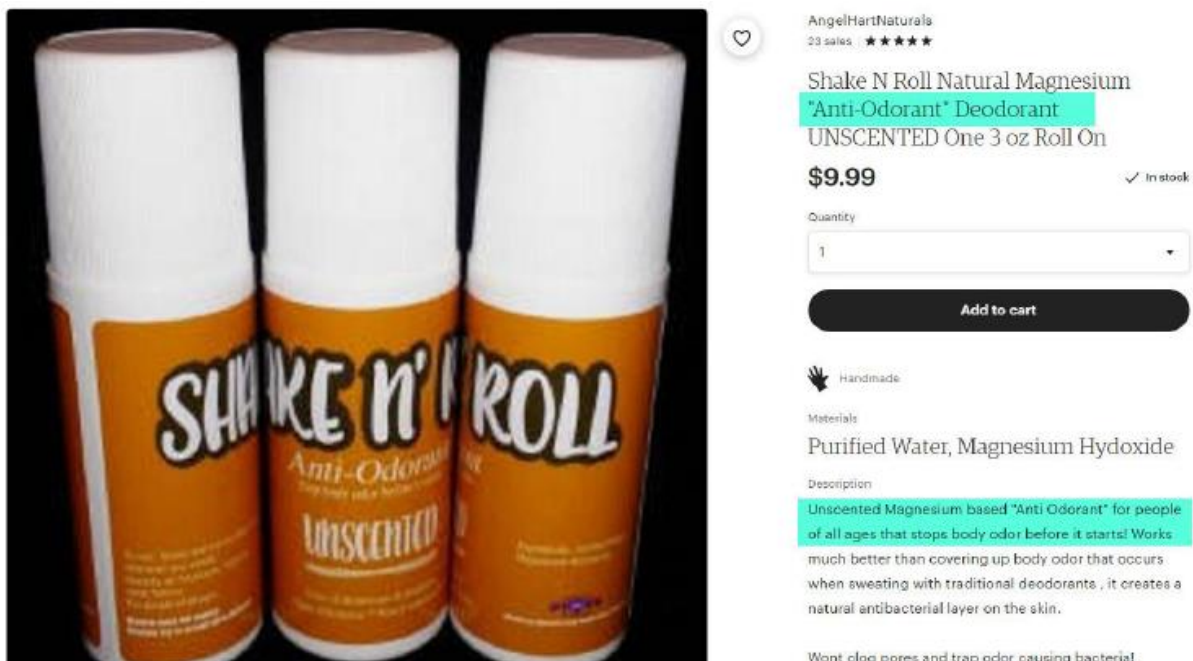
Thus, “anti-odorant” is used by multiple third parties to name a category of deodorants, or in at least Nuud’s case deodorant alternatives, that function by preventing odors from forming in the first place, rather than covering up odors after

⁸ While the Nuud website lists prices in pounds, at the same time it offers “free shipping worldwide.” March 24, 2020 Office Action TSDR 31. Furthermore, the product is available on “amazon.com” for United States dollars. May 28, 2021 Denial of Request for Reconsideration TSDR 16.

⁹ While this appears to be an Italian product, its web listing states “We ship worldwide!”

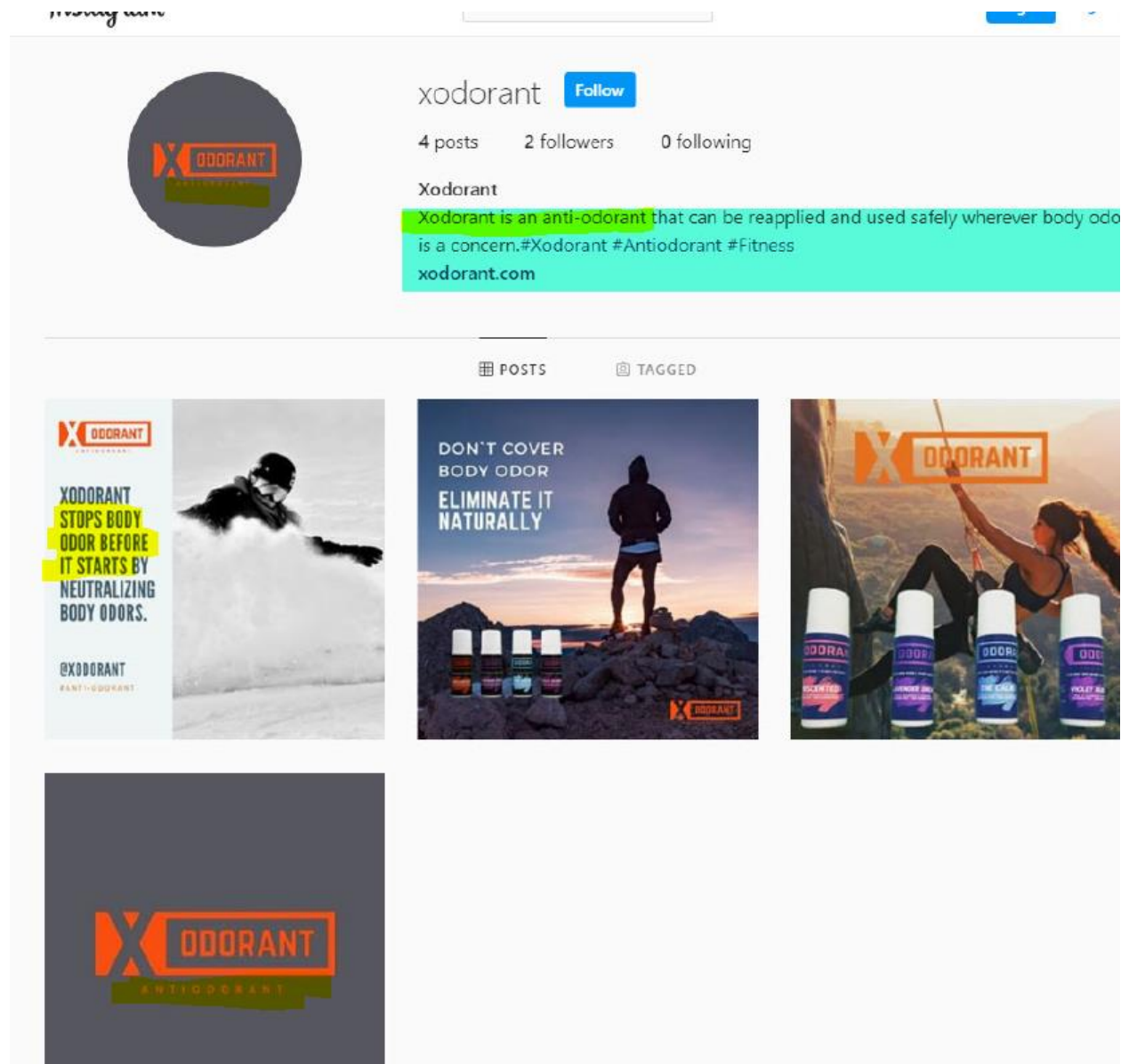
they develop. As a customer review of NO PONG anti-odourant puts it, “deodorant or anti-odourant controls the *odour* associated with sweating.” May 28, 2021 Office Action TSDR 41. An excerpt from a patent for “neutralizing acid on dermatological surfaces” and “treating body odor” more specifically explains that traditional “underarm deodorants” may irritate the skin. The Background of the Invention concludes: “Development of other efficacious **anti-odorant** substances which do not cause irritation or uncomfortable sensation when applied to the skin is therefore desirable.” March 24, 2020 Office Action TSDR 22 (emphasis added). *Cf. In re Pacer Tech.*, 338 F.3d 1348, 67 USPQ2d 1629, 1632 (Fed. Cir. 2003) (design patents, regardless of proof of commercialization, “set forth a ‘reasonable predicate’ for [USPTO] position of no inherent distinctiveness”).

The SHAKE N’ ROLL “Anti-Odorant” similarly “stops body odor before it starts”:



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October 26, 2020 Office Action TSDR 13 (emphasis added). As shown in both the photo and listing, this product's trademark is SHAKE N' ROLL, while the type of product is an "Anti-Odorant' Deodorant." Similarly, the XODORANT antiodorant, which "stops body odor before it starts," identifies the type of product identified by the XODORANT mark as an "anti-odorant":



Id. at 21 (emphasis added). The following listing for BIONSEN Deo Total Body anti-odorant reveals use of BIONSEN as the trademark identifying the product’s source and “anti-odorant” as the product type:



Id. at 22 (emphasis added). Another product, WUNDERARMS certified organic deodorant, claims to be “an anti-odourant not an anti-perspirant,” thus distinguishing “antiodorant” deodorants from anti-perspirant deodorants *Id.* at 24.¹⁰ Neter Gold offers a “Sensitive AntiOdorant Deodorant” under its FOREVER YIN trademark, with this description thus also revealing that an “antiodorant” is a type of “deodorant.” *Id.* at 31. In the same way, the listing for an ORGANI “deodorant” indicates that the product is an “anti-odorant” deodorant. *Id.* at 33. Amazon’s United States site makes the NATURANDO “daily antiodorant sensitive spray” available to Americans. May 28, 2021 Denial of Request for Reconsideration TSDR 61. Thus,

¹⁰ This product is offered by an Australian company, but the company’s website specifically states “Now shipping to Australia, NZ, USA, Canada, UK, Europe & Singapore,” and allows shoppers to “change your currency” to United States dollars.

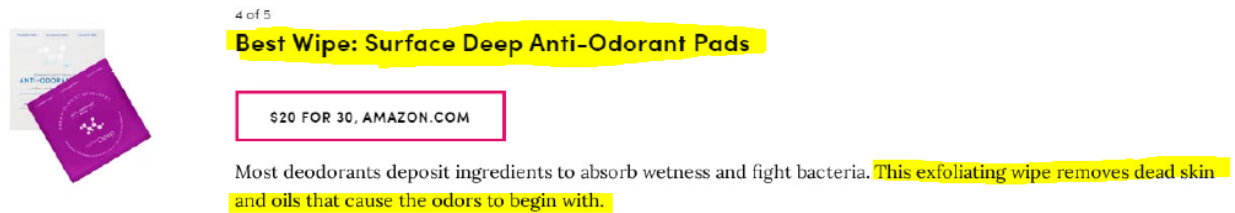
“antiodorant” and forms or alternate spellings thereof refers to a type of deodorant product, typically one which works by killing bacteria or stopping odors before they start. In these and other examples, “antiodorant” merely names the product category, while SHAKE N’ ROLL, XODORANT or other marks identify the specific brand of antiodorant.

Third parties also promote deodorants by touting their “anti-odorant” qualities or ingredients. For example the packaging for GREEN BEAVER COMPANY deodorant highlights “anti-odorant sage extract” as one of the product’s important facets:



March 24, 2020 Office Action TSDR 41 (emphasis added).

Furthermore, “anti-odorant” is used to name other types of deodorant products “for personal use,” such as Applicant’s “Anti-Odorant Pads” or wipes:



May 28, 2021 Denial of Request for Reconsideration TSDR 103 (emphasis added). An advertisement for Applicant’s “Anti-Odorant Pads” includes a quote from Applicant’s founder in which she suggests that she coined or is the sole user of the term “anti-odorants.” However, Applicant’s advertisement uses the term not to identify the product’s source, but instead a product category. Specifically, as Applicant’s founder states: “Surface Deep provides women and men of all ages with an **alternative to conventional deodorant products**. This is achieved through what I call ‘**anti-odorants**’ – the use of potent AHA fruit acids that naturally prevent odor-causing bacteria.” *Id.* at 104 (emphasis added).

The Examining Attorney argues based on this evidence that ANTI-ODORANT is generic for antiperspirants and deodorants for personal use, in whatever form, including “anti-odorant pads,” also known as “wipes.” 15 TTABVUE 5-6. According to the Examining Attorney, “there can be more than one generic term for a particular genus,” and the record in this case shows that “an anti-odorant is a deodorant and both [terms] are used interchangeably to identify personal antiperspirant and deodorants used to combat odor.” *Id.* at 7. Furthermore, “if anti-odorant is considered to be the name of a key aspect or feature of deodorants, the anti-odorant property of

the goods is so central to the goods themselves that the applied-for mark would be found to be generic for deodorants and antiperspirants.” *Id.* at 10. The Examining Attorney concludes: “Taking into consideration that deodorants in the evidence of record are marketed to the relevant public as anti-odorants and that the relevant consuming public understands anti-odorants to be the goods in question, it does not appear that ... anti-odorant has any source identifying qualities when used in connection with deodorants.” *Id.* at 15-16.

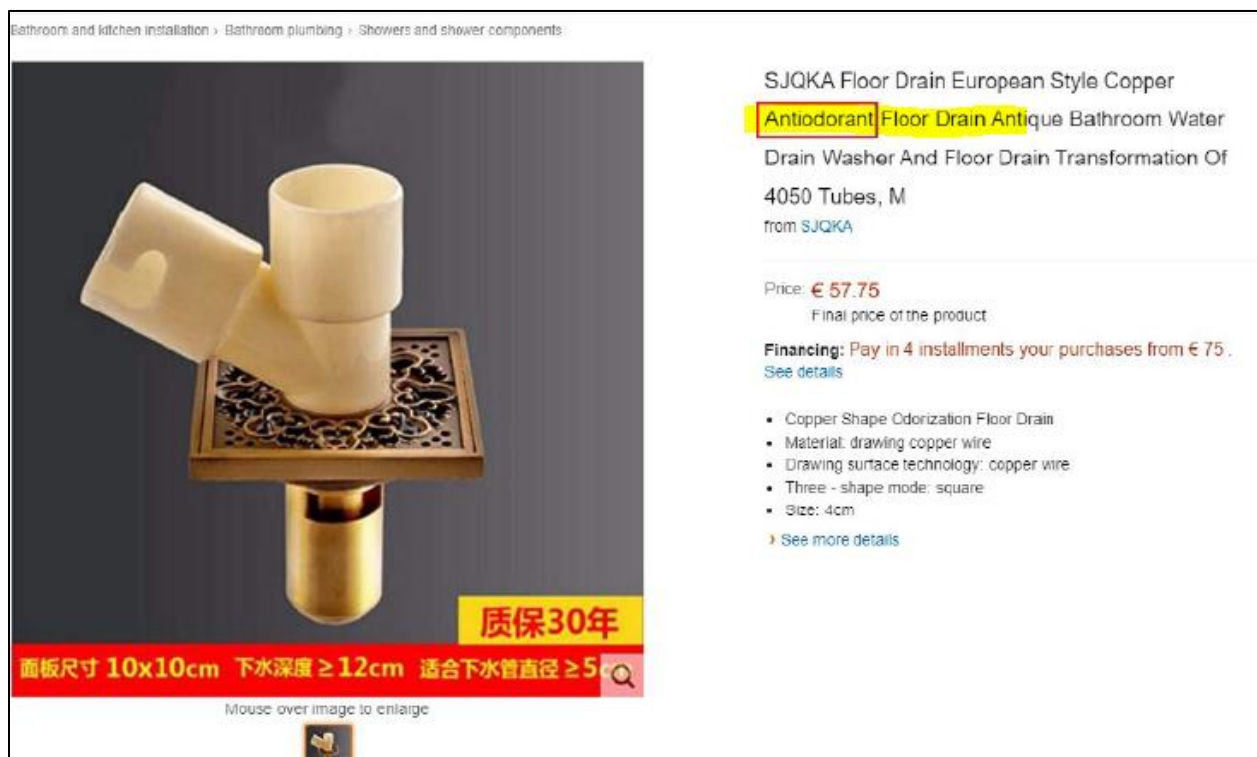
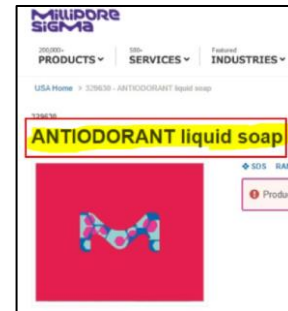
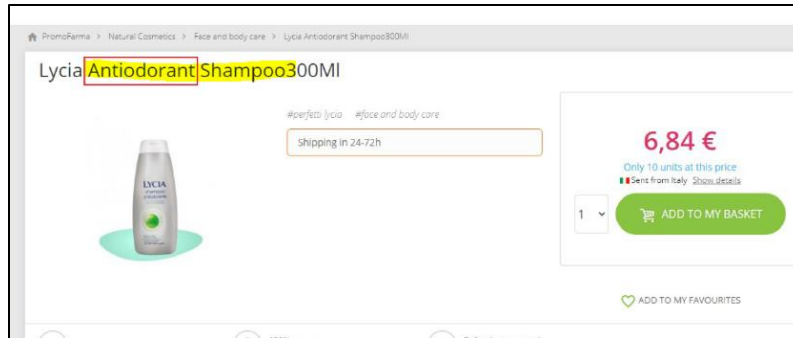
B. Applicant’s position

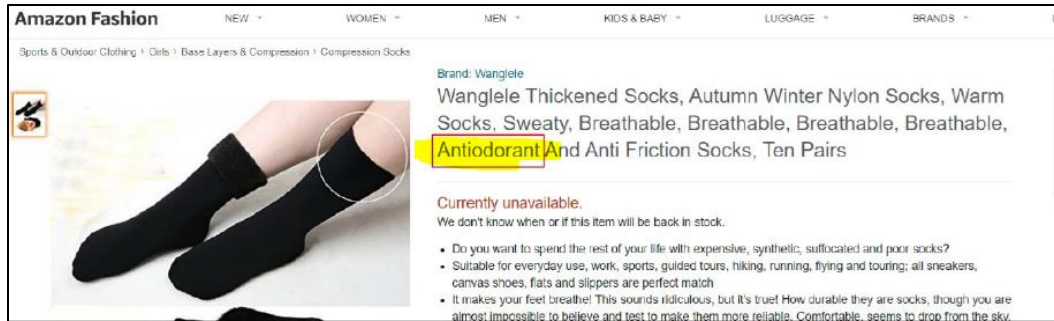
Applicant relies on what it refers to as use of “ANTIODORANT as an adjective and together with ‘deodorant’,” as shown below:



September 24, 2020 Office Action response TSDR 19, 20, (highlighting added, red outline in Applicant’s original submission).

It also relies on third-party uses of “ANTIODORANT as an adjective for products other than ‘antiperspirants and deodorant’ (i.e. shampoo, floor drain, liquid and lotion soap),” as shown below:





Id. at 19, 22-24, 29 (emphasis added); April 26, 2021 Request for Reconsideration TSDR 35 (emphasis added).

Similarly, Applicant introduced information about a Chinese patent for “An efficient composite **antiodorant** including wood and bamboo vinegar liquid extractive,” used for “eliminating odor in indoor and outdoor environment, poultry farm and odor generated by pet.” *Id.* at 30 (emphasis added). And it relies on another patent, this one for “Foam with Green Tea Additive for Foam Mattresses, Pillows and Cushions,” the abstract of which begins: “A method of making foam imparts antimicrobial and **antiodorant** qualities to the foam.” April 26, 2021 Request for Reconsideration TSDR 28 (emphasis added). Applicant points out that the term is also used in connection with the A+ design mark for “liquid spray for ambient air and surface deodorization”:



Id. at 30 (emphasis added).

Finally, Applicant relies on: several cancelled third-party registrations for ANTIODORANT; dictionary definitions of “refer” and “name;” a blog post concerning and including Professor J. Thomas McCarthy’s criticisms of *Royal Crown Co. v. The Coca-Cola Co.*, 892 F.3d 1358, 127 USPQ2d 1041 (Fed. Cir. 2018); comparisons between brand names used in international markets; comparisons between American and British English; and “U.S. Google search trends.” April 26, 2021 Request for Reconsideration TSDR 18, 31-122.

Applicant’s main argument in support of registration is that the proposed mark “is used to describe many products from soap to socks to antiperspirants. As a descriptor for many things, it cannot be a generic word for any of them.” 13 TTABVue 5. More specifically, “[t]he purpose of a good is descriptive of that good; it is not a substitute for the name of that good.” *Id.* at 8. Applicant goes on, based on its reading of Professor McCarthy’s treatise, to argue that “ANTI-ODORANT means nothing without knowledge of the product at issue, and thus cannot answer ‘what are you’ without more information – this is quintessential descriptiveness; it is not genericness. Descriptive marks require knowledge of the goods or services to make the connection between product/service and mark.” *Id.* at 10. By contrast, generic terms “do not even require a basic or rudimentary knowledge of what the goods or services are because a generic term is the name of those goods or services or a key aspect of such goods or services.” *Id.*

II. Analysis

“Generic terms are common names that the relevant purchasing public understands primarily as describing the genus of goods or services being sold. They are by definition incapable of indicating a particular source of the goods or services.” *In re Dial-A-Mattress Operating Corp.*, 240 F.3d 1341, 57 USPQ2d 1807, 1810 (Fed. Cir. 2011) (citations omitted). *See also USPTO v Booking.com B.V.*, 591 U.S. ___, 140 S. Ct. 2298, 2020 USPQ2d 10729 at 2-4 (2020); *Royal Crown Co. v. Coca-Cola Co.*, 892 F.3d 1358, 127 USPQ2d 1041, 1045-46 (Fed. Cir. 2018).

The ultimate test for determining whether a term is generic is its primary significance to the relevant public. *See* Section 14(3) of the Act. *See also In re Am. Fertility Soc’y.*, 188 F.3d 1341, 51 USPQ2d 1832 (Fed. Cir. 1999); *Magic Wand Inc. v. RDB, Inc.*, 940 F.2d 638, 19 USPQ2d 1551 (Fed. Cir. 1991). The examining attorney bears the burden of making a “strong” showing, with “clear evidence,” that Applicant’s mark is generic. *In re Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 828 F.2d 1567, 4 USPQ2d 1141 (Fed. Cir. 1987). *See In re K-T Zoe Furniture, Inc.*, 16 F.3d 390, 29 USPQ2d 1787, 1788 (Fed. Cir. 1994). “[D]oubt on the issue of genericness is resolved in favor of the applicant.” *In re DNI Holdings Ltd.*, 77 USPQ2d 1435, 1437 (TTAB 2005).

We must make a two-step inquiry to determine whether ANTI-ODORANT is generic: First, what is the genus (category or class) of goods at issue? Second, is the term sought to be registered understood by the relevant public primarily to refer to that genus of goods? *H. Marvin Ginn Corp. v. Int’l Ass’n of Fire Chiefs, Inc.*, 782 F.2d 987, 228 USPQ 528, 530 (Fed. Cir. 1986).

A. The Genus

As indicated, Applicant and the Examining Attorney agree that the genus here is coextensive with Applicant's identification of goods: "antiperspirants and deodorants for personal use." 15 TTABVUE 5; 13 TTABVUE 10. We agree that Applicant's identification of goods adequately defines the genus. Indeed, "a proper genericness inquiry focuses on the description of [goods] set forth in the [involved application]." *In re Cordua Rests., Inc.*, 823 F.3d 594, 118 USPQ2d 1632, 1636 (Fed. Cir. 2016) (quoting *Magic Wand*, 19 USPQ2d at 1552).

B. The Relevant Public

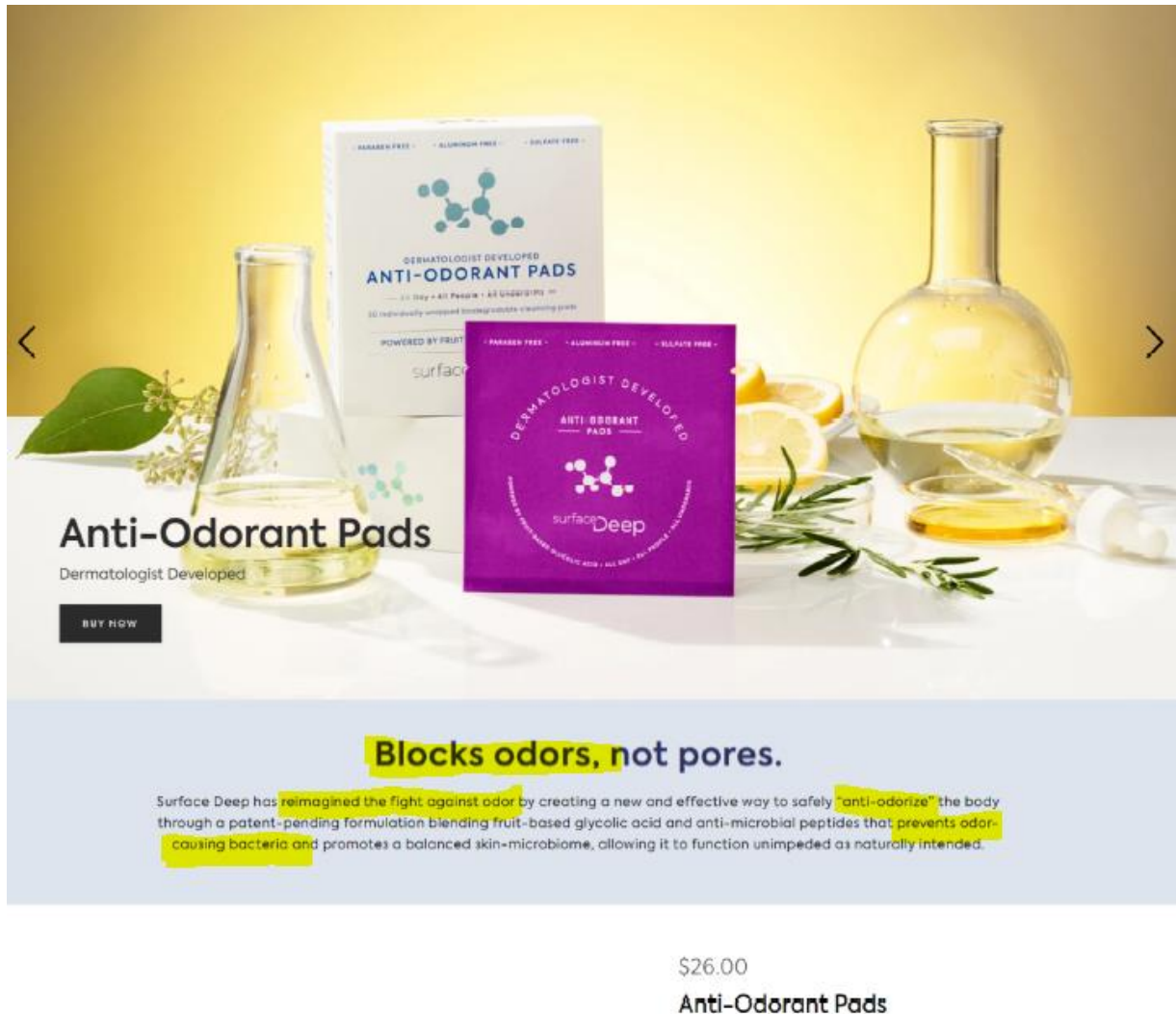
Because the genus is "antiperspirants and deodorants for personal use," the relevant public consists of members of the general consuming public, specifically people who want to eliminate or reduce their own sweat or body odor.

C. The Relevant Public's Understanding of the Proposed Mark

Evidence of the relevant public's (i.e., individual consumers') understanding of ANTI-ODORANT may be obtained from any competent source, including testimony, surveys, dictionaries, trade journals, newspapers, and other publications. *In re Northland Aluminum Prods., Inc.*, 777 F.2d 1556, 227 USPQ 961, 963 (Fed. Cir. 1985). "[E]vidence of competitors' use of particular words as the name of their goods or services is, of course, persuasive evidence that those words would be perceived by purchasers as a generic designation for the goods and services." *Cont'l Airlines, Inc. v. United Air Lines, Inc.*, 53 USPQ2d 1385, 1395 (TTAB 1999).

We start with the dictionary evidence, which is quite clear about the meaning of the compound term ANTI-ODORANT. As a term combining "anti," which means

“counteracting,” with “odorant,” which means an “odorous substance,” the proposed mark ANTI-ODORANT obviously means something which prevents odors. And that is exactly how Applicant uses the term, as evidenced by its specimen of use:



The advertisement features a central image of two boxes of "ANTI-ODORANT PADS" by "surfaceDeep". The boxes are white and purple, with a molecular structure logo. They are surrounded by laboratory glassware (Erlenmeyer and round-bottom flasks) containing yellow liquid, lemons, and green herbs. The text "Anti-Odorant Pads" is prominently displayed, along with "Dermatologist Developed" and a "BUY NOW" button. Below the image, a blue banner contains the text "Blocks odors, not pores." and a paragraph describing the product's benefits. The price "\$26.00" and the product name "Anti-Odorant Pads" are listed at the bottom right.

Anti-Odorant Pads
Dermatologist Developed

Blocks odors, not pores.

Surface Deep has reimagined the fight against odor by creating a new and effective way to safely "anti-odorize" the body through a patent-pending formulation blending fruit-based glycolic acid and anti-microbial peptides that prevents odor-causing bacteria and promotes a balanced skin-microbiome, allowing it to function unimpeded as naturally intended.

\$26.00
Anti-Odorant Pads

nimbus screenshot app print



30 individually wrapped 100% biodegradable cleansing pads. Replaces your deodorant with clean ingredients for clean skin.



Subscribe and Save!

(emphasis added). As shown, Applicant’s ANTI-ODORANT pads are intended to “block odors,” “anti-odorize” and “prevent odor-causing bacteria,” and these are the specific uses for which Applicant promotes its deodorant pads. Thus, “antiodorant” is nothing more than a synonym for “deodorant,” as perhaps best evidenced by Applicant’s specimen itself, which indicates that Applicant’s ANTI-ODORANT product “replaces your deodorant.” *See In re Empire Tech. Dev. LLC*, 123 USPQ2d 1544, 1549 (TTAB 2017) (“the way an applicant uses an alleged mark ... in promotional materials or packaging, is relevant to whether consumers will perceive the mark as an indicator of source or instead as descriptive or generic”); *In re Steelbuilding.com*, 415 F.3d 1293, 75 USPQ2d 1420 (Fed. Cir. 2005) (examining the subject website in order to understand the meaning of terms).

Turning to the third-party evidence of record, we find that it amply demonstrates that the relevant public (ordinary consumers) understands the term ANTI-ODORANT to be synonymous with and no more source-indicating than “deodorant.” In fact, third parties use “antiodorant” not to identify a specific deodorant brand, but instead to identify product categories. For example, the following brand names are used to identify the following product types:

<u>Brand Name</u>	<u>Product Type</u>	<u>Cite to Record</u>
TEA NATURA	“aromatic antiodorant water”/“natural deodorant”	December 11, 2019 Office Action TSDR 11
TRUST	“anti-odorants” which “are not anti-perspirants” but rather “eliminate bacteria”	March 24, 2020 Office Action TSDR 25

<u>Brand Name</u>	<u>Product Type</u>	<u>Cite to Record</u>
NO PONG	“natural deodorant”/“anti odourant” in lotion form	May 28, 2021 Denial of Request for Reconsideration TSDR 29-36
NUUD	“anti-odorant” which “prevents odor by neutralizing bacteria”	March 24, 2020 Office Action TSDR 29-36
SAPONE DI UN TEMPO	“anti-odorant spray”/“green tea deodorant” which “fights bacteria”	March 24, 2020 Office Action TSDR 45
SHAKE N’ ROLL	“natural magnesium anti odorant deodorant”	October 26, 2020 Office Action TSDR 13
XODORANT	“anti-odorant”	October 26, 2020 Office Action TSDR 21
BIONSEN	“natural anti-odorant”	October 26, 2020 Office Action TSDR 22
WUNDERARMS	“anti-odourant”/“roll-on deodorant”/“organic deodorant”	October 26, 2020 Office Action TSDR 24-30
FOREVER YIN	“antiodorant deodorant”	October 26, 2020 Office Action TSDR 31-32
ORGANI	“anti-odorant”	October 26, 2020 Office Action TSDR 33
NATURANDO	“antiodorant sensitive spray”	May 28, 2021 Denial of Request for Reconsideration TSDR 61
THE GREEN BEAVER COMPANY	“natural deodorant stick” with “anti-odorant sage oil”	March 24, 2020 Office Action TSDR 41

Thus, the record reveals that the term ANTIODORANT and minor variations thereof (such as “anti-odorant”) is used by many personal care brands in its ordinary

dictionary sense – the term is essentially synonymous with “deodorant.” In fact, “antiodorant” identifies a type of product, one which deodorizes, and a number of companies sell “antiodorants.” Focusing more specifically on the relevant context for our purposes (“personal use” deodorants and anti-perspirants), the term “antiodorant” identifies products which counteract body odor. While the term is perhaps used most often in connection with “natural” deodorants, or deodorants that “neutralize” or “fight” bacteria rather than masking odors in another way, these types of deodorants for personal use fall squarely within Applicant’s identification of goods and the genus of goods.

Furthermore, Applicant’s “Anti-Odorant Pads” are also “deodorants for personal use,” and thus fall within the genus of goods. May 28, 2021 Denial of Request for Reconsideration TSDR 103-04. Therefore, while Applicant promotes its pads as “an alternative to conventional deodorant products,” its use of the term “anti-odorant” is entirely consistent with how the term is used in connection with “conventional” deodorant products, such as roll-ons. Specifically, Applicant and third parties use “antiodorant” to identify “personal use” deodorizing products, whether the products are categorized as “antiperspirants” or “deodorants,” and whether they are in the form of pads, lotions, “sticks” or sprays.

Applicant’s argument that ANTI-ODORANT and forms thereof is also used to identify products which are not for “personal use” (such as floor drains), or are not “antiperspirants” or “deodorants” (such as socks), is not relevant to the question before us. We must consider genericness in the context of the genus/identification of

goods at issue (“antiperspirants and deodorants for personal use”), rather than another genus or identification of goods (such as floor drains or socks). *See In re ActiveVideo Networks, Inc.*, 111 USPQ2d 1581, 1588 (TTAB 2014) (meteorological meanings of ‘cloud’ irrelevant to whether CLOUDTV is generic for computer goods and services); *In re Rosemount Inc.*, 86 USPQ2d 1436, 1439 (TTAB 2008) (“It is well established that we must look to the meaning of a term within the context of the identified goods.”). “That a term may have other meanings in different contexts is not controlling.” *In re Franklin Cty. Hist. Soc.*, 104 USPQ2d 1085, 1087 (TTAB 2012) (citing *In re Bright-Crest, Ltd.*, 204 USPQ 591, 593 (TTAB 1979)).

As the U.S. Court of Appeals for the Second Circuit explained 45 years ago in considering whether SAFARI was generic for certain types of clothing:

It is common ground that A&F could not apply ‘Safari’ as a trademark for an expedition into the African wilderness. This would be a clear example of the use of ‘Safari’ as a generic term. What is perhaps less obvious is that a word may have more than one generic use. The word ‘Safari’ has become part of a family of generic terms which, although deriving no doubt from the original use of the word and reminiscent of its milieu, have come to be understood not as having to do with hunting in Africa, but as terms within the language referring to contemporary American fashion apparel. These terms name the components of the safari outfit well-known to the clothing industry

Abercrombie & Fitch Co. v. Hunting World, Inc., 537 F.2d 4, 189 USPQ 759, 766 (2d Cir. 1976). In other words, “[a] word may have more than one generic use, and it is protected in each of its generic uses from appropriation by any one merchant.” *Gear Inc. v. LA Gear Cal. Inc.*, 670 F.Supp. 508, 4 USPQ2d 1192, 1197 (S.D.N.Y. 1987), *vacated in part, dismissed* 13 USPQ2d 1655 (S.D.N.Y. 1989).

As we held in finding LAWYERS.COM generic for a website:

... the likelihood that some members of the relevant public would think of a web site providing online access to lawyers while others might think of a web site providing online information *about* lawyers does not render LAWYERS.COM non-generic. Either understanding of the term would be generic and the fact that a term may have two generic meanings when considered in connection with a particular class of services does not mean it is not generic.

In re Reed Elsevier Props. Inc., 77 USPQ2d 1649, 1656 (TTAB 2005), *aff'd*, 482 F.3d 1376, 82 USPQ2d 1378 (Fed. Cir. 2007); *see also In re Helena Rubinstein, Inc.*, 410 F.2d 438, 161 USPQ 606, 607 (CCPA 1969) (affirming refusal to register PASTEURIZED on the Supplemental Register for face cream, and citing with approval the Board's statement that "the word 'PASTEURIZED' is generically descriptive of any and all products which have been subjected to pasteurization"). This explains why we have found a number of broad terms with multiple meanings and uses to be generic for a particular genus. *See e.g. Sheetz of Del., Inc. v. Doctor's Assoc. Inc.*, 108 USPQ2d 1341 (TTAB 2013) (FOOTLONG generic for sandwiches); *In re Rosemount*, 86 USPQ2d at 1436 (REDUCER generic for flow meters); *In re Nat'l Patent Dev. Corp.*, 231 USPQ 823 (ULTRA PURE generic for interferons for medical use). These cases demonstrate that terms with multiple meanings/uses may be generic for multiple goods or genera, as "footlong," "reducer" and "ultra pure" are each likely generic for multiple categories of goods. Here, as we pointed out in another recent case, "Applicant cites to no authority for its apparent position that [ANTI-ODORANT] cannot be found generic in this case because it is too broad a term." *In re James Haden MD*, 2019 USPQ2d 467424 at *4 (TTAB 2019).

Applicant's argument that ANTI-ODORANT is not generic because it is an adjective is similarly misplaced. *Sheetz*, 108 USPQ2d at 1366 (finding FOOTLONG generic for sandwiches even though it "is not the name of a food product," holding that "adjectival use" of the term "does not remove 'Footlong' from being generic when used in connection with sandwiches"); *In re Central Sprinkler Co.*, 49 USPQ2d 1194, 1199 (TTAB 1998) (ATTIC generic for sprinklers, even though it is a "generic adjective"). Furthermore, while it appears that "deodorant" may be a more prevalent generic term for the goods than "anti-odorant," that does not render "anti-odorant" non-generic. Indeed, "[t]he fact that one generic term is prevalent in public usage does not preclude the Court from finding that the adjective equivalent of the term is also generic." *Convenient Food Mart, Inc. v. 6-Twelve Convenient Mart, Inc.*, 690 F.Supp. 1457, 8 USPQ2d 1353, 1356 (D. Md. 1988), *aff'd* 870 F.3d 654, 10 USPQ2d 2037 (4th Cir. 1989). *See also In re Empire Tech.*, 123 USPQ2d at 1551 (quoting *In re Trek 2000 Int'l Ltd.*, 97 USPQ2d 1106, 1109 (TTAB 2010) ("It is well established that the availability of other words for competitors to use does not, by itself, transform a generic term into capable matter.")).

III. Conclusion

The record leaves no doubt that ANTI-ODORANT – which dictionary definitions and third-party uses reveal to be a synonym for "deodorant," and which is commonly used by third parties in connection with deodorants and antiperspirants – is generic for "antiperspirants and deodorants for personal use."

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Decision: The refusal to register Applicant's proposed mark ANTI-ODORANT under Section 23(c) of the Trademark Act on the ground that it is generic for the identified goods is affirmed.